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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/965,374	09/26/2001	Jeffry Harlow Loucks	3612.PALM.PSI	6414
49637	7590	09/15/2008	EXAMINER	
BERRY & ASSOCIATES P.C. 9255 SUNSET BOULEVARD SUITE 810 LOS ANGELES, CA 90069			TO, JENNIFER N	
ART UNIT	PAPER NUMBER			
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/965,374	<b>Applicant(s)</b> LOUCKS, JEFFRY HARLOW
	<b>Examiner</b> JENNIFER N. TO	<b>Art Unit</b> 2195

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(o).

#### Status

1) Responsive to communication(s) filed on 15 October 2007.

2a) This action is **FINAL**.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-29 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-29 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_

5) Notice of Informal Patent Application  
6) Other: \_\_\_\_\_

**DETAILED ACTION**

1. Claims 1-29 are pending for examination.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 1-29 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

4. Claims 1, 10, 16, and 26, recited the limitation of "independently of any predetermined operating system tasks". However, this limitation was not support or described in the specification. According to the specification, there are only two kinds of tasks (background tasks and foreground tasks). The predetermined operating system tasks were not disclosed in the specification at all. Therefore the claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. For the purpose of examination, examiner interpreted the steps (the steps that recited the limitation of

"independently of any predetermined operating system tasks/applications", in claims 1, 10, 16, and 26 as "the task allocating the execution presence and the data presence accordingly to each of the registered services such that each of the registered services is given an opportunity to be scheduled in the dedicated pre-assigned time slice, wherein the foreground and background task operating independently".

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Akiyama et al. (hereafter Akiyama) (U.S. Patent No. 6430594), and in view of Burns (U.S. Patent No. 6098090).

7. Akiyama and Burns were cited in the previous office action.

8. As per claim 1, Akiyama teaches the invention substantially as claimed including a method for scheduling tasks (col. 1, lines 7-14) comprising:  
a background task registering at least one registered service, the background task invoked by a kernel of a computer operating system in a dedicated pre-assigned time slice, the computer operating system comprising the background task and

foreground task (although Akiyama did not mention a foreground task, but it is obvious to one of an ordinary skill in the art to know that all computer operating system including the background and foreground task), the background task for providing an execution presence and data presence to the registered service (fig. 1; col. 3, lines 32-53; col. 9, lines 51-64);

the background task ranking the registered service according to the requirements of the registered service (col. 8, lines 27-30); and

the background task allocating the execution presence and the data presence accordingly to each of the registered services such that each of the registered services is given an opportunity to be scheduled in the dedicated pre-assigned time slice (fig. 5; col. 5, lines 25-55).

9. Akiyama did not specifically teach the background task being scheduled independent from the operation of the foreground task.

10. However, Burns teaches the background task and the foreground task, the background task being scheduled independent from the operation of the foreground task (col. 1, lines 13-18, 55-58; background tasks are performed frequently "monitoring the selection...or the choice of a menu selection", these background tasks are performed without the controlled or involved by the foreground task).

11. It would have been obvious to one of an ordinary skill in the art at the time the invention was made to have combined the teaching of Akiyama and Burns because Burns teaching the background task being scheduled independent from the operation of the foreground task would improve the integrity of Akiyama's system by enabling a task to register the execution of one or more background tasks, and minimizing the amount of system resources (Burns, col. 1, lines 55-61).

12. As per claims 2, and 9, Akiyama teaches Akiyama further teaches the step of the background task searching for at least one registered service associated therewith (col. 6, lines 29-41).

13. As per claims 3-4, it is rejected for the same reason as claim 1 above.

14. As per claims 5-6, Akiyama teaches wherein the service is a system related activity and/or an interrupt-related activity (fig. 6).

15. As per claim 7, Burns teaches wherein the service is a background-related activity (fig. 1).

16. As per claim 8, Akiyama teaches the step of periodically repeating the steps a) through c) (figs. 9, 11; col. 9, lines 31-34).

17. As per claims 10-29, they are rejected for the same reason as claims 1-9 above.

***Response to Arguments***

18. Applicant's arguments filed 10/15/2007 have been fully considered but they are not persuasive.

19. In the remark applicant argued that the combination of Akiyama and Burns fail to teach foreground or background tasks operating independent of predetermined operating system tasks.

20. Examiner respectfully disagreed with applicant. First, the limitation of "independent of deadlines tasks" is rejected under 35 U.S.C 112, 1<sup>st</sup> paragraph (see paragraph 4 of this action). Second, applicant is reminded that the rejection is based on the combined teaching of Akiyama and Burns. Akiyama did not specifically teach foreground and background task operating independently. However, Burns teaches foreground and background task operating independently (col. 1, lines 15-18, background tasks are performed frequently "monitoring the selection...or the choice of a menu selection", these background tasks are performed without the controlled or involved by the foreground task). Therefore, it would have been obvious to one of an ordinary skill in the art at the time the invention was made to have combined the teaching of Akiyama and Burns because Burns teaching of background task and foreground task, the background task being scheduled independent from the operation

of the foreground task would improve the integrity of Akiyama's system by enabling a task to register the execution of one or more background tasks, and minimizing the amount of system resources (Burns, col. 1, lines 55-61).

### ***Conclusion***

21. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

22. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer N. To whose telephone number is (571) 272-7212. The examiner can normally be reached on M-T 6AM- 3:30 PM, F 6AM- 2:30 PM.

23. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai An can be reached on (571) 272-3756. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

24. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Meng-Ai An/  
Supervisory Patent Examiner, Art Unit 2195

J